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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212834	
Party	Defendant MOBIGAME	
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Submission	Answer	
Filer's Name	David Papazian	
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Signature	/David Papazian/	
Date	03/18/2015	
Attachments	langdell_opposition_2015.pdf(1020612 bytes )	

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MOBIGAME	)	
Applicant,	)	
	)	Opposition No. 91212834
v.	)	Serial No. 79067304
	)	Mark: EDGE
Edge Games Inc.	)	Filing Date: January 12, 2009
Opposer,	)	Publication Date: June 4, 2013
	)	

## **MOBIGAME'S RESPONSE TO THE OPPOSER**

- 1. First of all, MOBIGAME wishes to thank the USPTO for restoring our trademark application.
- 2. The Opposer, Mister Tim Langdell has no ground for opposition; he sent two very long repetitive documents (11 & 12) containing lies and made up evidence to which we will respond in his letter.

## First, response to the document 11 (RESPONSE TO MOTION TO DISMISS)

3. Mister Langdell says we "made a public statement on the internet that we were fully aware of the opposition proceedings and the board's order". The truth is, a journalist, also fan of our iPhone game EDGE wrote to us on Twitter. We don't have time to read and answer properly to all our fans on Twitter.

At this time (September 2013), Langdell was still harassing us, and that's what we answered on Twitter to Craig Grannell on October 7, 2013. We did not read the link he sent to us, and we did not understand this matter was serious. In **Exhibit A**, please find the 2 emails sent to us by Tim Langdell before he started this opposition. We never answered to those emails. I want you to see them to prove Langdell was, harassing us, lying to us, trying to manipulate us. These emails are genuine. I admit there is a reference to the opposition he filled in the second email, but it's buried under a lot of lies and I did not lose time to read all his emails after I understood he was a liar and a fraud. I did not consider them to be true (Future publishing would certainly not oppose our mark), I was certain it was a lie. The opposition was too fresh to appear on the USPTO website and I had no way to know it was serious. Later, I never received any official document about this opposition from the USPTO nor from Langdell.

I also attach some exchange on twitter with Craig Grannell from 2009, and other tweets from other people in **Exhibit B**. I believe it proves that we receive a lot of tweets, including tweets about the bad faith and evilness of Tim Langdell, and we cannot answer, read, and investigate everything.

To close this point, I never "made a public statement on the internet that we were fully aware of the opposition proceedings and the board's order". I only made a public statement on the

internet that Tim Langdell was still harassing us. At this time I did not understand that he filled an opposition and that it was serious.

4. Mobigame never received any copy of the notice of opposition. The opposer Tim Langdell has not proved we received the documents. Regarding the different exhibit of the opposer document:

Opposer's exhibit A: the opposer has not proved we received the documents. The certificate of service is a statement that the opposer claims he filed the documents. It is not evidence of delivery.

Opposer's exhibit B: the US Postal Service label does not evidence delivery of the package.

Opposer's exhibit C: the postage stamp label does not prove delivery.

Opposer's exhibit D: the return label does not prove delivery, only that the package was returned.

The opposer states that express mail delivery is "assured". This is an assumption and not based on any genuine proof of delivery.

Opposer's exhibit E: the opposer's claim that the documents were reviewed is suspicious and is pure conjecture. It's clearly another lie from mister Langdell to manipulate the USPTO. We challenge him to discover any finger print or DNA material from us on this document.

As already said, we never received it and it's amazing to read what Tim Langdell can imagine to say the contrary.

5. On September 29, 2013 (Paris time), we received a blackmail from Tim Langdell, as you can see in **Exhibit A**. It proves Tim Langdell knew my email at least, we will use this argument later. We ignored this email at this time and we never answered it.

This email merely states an intention to file an opposition action. It was sent before the actual filing date of the action and does not evidence the actual filing of a proceeding. At most, it indicates a dispute between the parties, but not the filing of an opposition action. Accordingly, opposer's allegation that we made a knowing false statement is incorrect and entirely unreasonable.

If you read our **Exhibit A** which contains the full uncensored version, the email at opposer's exhibit F notifies us of the opposer's AND Future publishing intention to file but is not evidence of actual service. Moreover it's a lie because we have a friendly relationship with Future Publishing and they would never do that. You may understand that we don't read carefully Langdell email because they make no sense, they are just blackmails.

The email service is irrelevant anyway, since both parties have to agree to service of documents by electronic means, such as email.

6. The opposer's exhibit G is a pure invention. This email does not exist. Please note that Tim Langdell is well known for making up evidence. If you read the judgment of the court provided in my previous letter, you will see he made up specimen for applying trademark at the USPTO (it's a federal crime) and he also made up emails and letters to manipulate some journalists and game developers.

Of course on a technical note, every email comes with a header, this header include many technical information like an unique identifier for each email. In 2013 the emails of my company (and my email address used by Tim Langdell) are hosted by Google apps for business.

It would be very easy to prove this email does not exist on Google server (I believe we can trust Google to be neutral in this matter). Tim Langdell never sent us the notice of opposition by email, and he never sent us any email like this on October 3, it's totally fake. If the USPTO has any doubt, please ask Google.

7. Our position about the tweet at opposer's exhibit H is clear. Langdell was harassing us, as we proved with the Exhibit A. We also receive many tweets and we cannot consider all of them seriously. However we answered to Craig Grannell to let him know that Tim Langdell was still harassing us. We understood Craig was talking about Tim. Tim tried to register many new marks and the link pointing to the USPTO website was a good indication that it was about Tim Langdell again. But we never, never, never acknowledge anything publicly. We were not aware of this opposition, and we did not understand how serious it was when Craig Grannell tried to tell us.

Also we never deleted this tweet, this is a pure invention of Tim Langdell. You can search on our twitter feed, you will see it has always been there and we never tried to hide anything.

Mobigame has a registered trademark EDGE in France since 2008 and an international trademark since 2009. We applied for an extension to an U.S. trademark in January 2009. Since this day, we regularly check the status of our application. At the beginning we came very often, and we tried to alert the USPTO about Tim Langdell. But things move on only when Electronic Arts won a lawsuit against him, and a judge ordered all his mark to be cancelled. At this point we were pretty sure it was a victory! Our mark finally got published. Langdell was still harassing us, but we were sure it was the last move of a dying fool. With all the charges against him, how could we just imagine that he would seriously oppose our application? Langdell is manipulating the truth, and he made up evidences to tell us a story, which is a total lie. It's crazy that we still have to answer him here. The place of this man is in jail! What he did (several times) is a federal crime, and the USPTO must sue him.

As I said, we diligently monitor our application since January 2009. After 5 years of proceeding I may come only every six months, considering things did not move fast in 5 years, why should they go faster now? Honestly, I don't remember if I checked our application on October 2 precisely, but I did not know about this opposition. So if I did connect on the USPTO website between the two emails sent by Langdell (**Exhibit A**) between September 29 and October 2, 2013, it could not be visible yet at this time, and I could not know about this opposition.

Tim Langdell is a perjure, he has no ground for his opposition, all his marks are cancelled. I am fighting him for 6 years now! If you search on Google you will see that I will never give up until I win, for justice. So if I knew about the opposition, can someone explain why I would stay silent? It makes no sense.

- 8. Langdell claims that I lied in my letter to the Director of the USPTO. Of course it is Langdell who is lying here. I did not know about this opposition. Langdell never sent me any document about this opposition (just a threat to do it maybe, in a blackmail). And I never received any document from the USPTO about this. I discovered it by myself while monitoring our mark during the year 2014.
- 9. Our public address is really easy to find. A simple search on Societe.com, the French database for companies give our different addresses through time, as shown on **Exhibit C**.

Langdell says that the website "French-corporate.com" is the official database for French companies, which is absolutely wrong. However, this website still give the good address for our company contrary to what Langdell says, which is 50 rue du faubourg Saint Antoine, 75012 Paris, as shown on **Exhibit C**.

The link "contact" on our website allow you to send an email to us at <a href="mailto:contact.web@mobigame.net">contact.web@mobigame.net</a>. But Langdell never sent anything to this address. Langdell proved himself that he knew that our office address had changed since his letter was returned as he admitted. But he did not try to provide us the notice of opposition in any other way. And the fact that Langdell is now fabricating evidence (a fake email sent on October 3, 2013) is really weird. As I said, it's easy to prove it's a made up email if we ask Google who host all our emails.

Other recent trademarks of Mobigame at the USPTO have the correct address.

Finally, Langdell could have asked me the correct address by email when he knew the one he had was wrong if he was acting in good faith, but he never did.

The applicable rules with regard to service of papers read as follows:

### 37 CFR § 2.119 Service and signing of papers.

- (a) Every paper filed in the United States Patent and Trademark Office in inter partes cases, including notice of appeal, must be served upon the other parties. Proof of such service must be made before the paper will be considered by the Office. A statement signed by the attorney or other authorized representative, attached to or appearing on the original paper when filed, clearly stating the date and manner in which service was made will be accepted as prima facie proof of service.
- (b) Service of papers must be on the attorney or other authorized representative of the party if there be such or on the party if there is no attorney or other authorized representative, and may be made in any of the following ways:
- (1) By delivering a copy of the paper to the person served;
- (2) By leaving a copy at the usual place of business of the person served, with someone in the person's employment;
- (3) When the person served has no usual place of business, by leaving a copy at the person's residence, with a member of the person's family over 14 years of age and of discretion;
- (4) Transmission by the "Express Mail Post Office to Addressee" service of the United States Postal Service or by first-class mail, which may also be certified or registered;
- (5) Transmission by overnight courier.
- (6) Electronic transmission when mutually agreed upon by the parties.

Whenever it shall be satisfactorily shown to the Director that none of the above modes of obtaining service or serving the paper is practicable, service may be by notice published in the Official Gazette.

(c) When service is made by first-class mail, "Express Mail," or overnight courier, the date of mailing or of delivery to the overnight courier will be considered the date of service. Whenever a party is required to take some action within a prescribed period after the service of a paper upon the party by another party and the paper is served by first-class mail, "Express Mail," or overnight courier, 5 days shall be added to the prescribed period.

# Further, Chapter 113.04 of the Trademark Trial and Appeal Board Manual of Procedure (TBMP) provides as follows:

"A party located outside the United States generally cannot serve an adverse party by the manners of service specified in 37 CFR § 2.119(b)(1)-(3)37 CFR § 2.119(b)(1)- 37 CFR § 2.119(b)(3). Moreover, a foreign party may not substitute its national postal service, or omit reference to the nation of the postal service employed, as a means of using 37 CFR § 2.119(b)(4) manner of service; 37 CFR § 2.119(b)(4) requires transmission by the United States Postal Service."

"As a practical matter, parties located outside the United States must meet the service requirement through 37 CFR § 2.119(b)(5) - 37 CFR § 2.119(b)(6). Parties located outside the United States are strongly encouraged to list an e-mail address with the Board for the duration of the inter partes proceeding, and to seek written agreement from the adverse party to service by electronic transmission."

In light of the above the opposer's delivery by first class mail or express mail was ineffective. The requirements are for overnight courier or electronic transmission, and we had no agreement with Tim Langdell to serve by email.

It therefore appears that the opposer has not proved that the notice of opposition was actually served on us. All the exhibits in the Response to Motion to Dismiss are circumstantial evidence and do not prove actual service. And for the fake ones, like the made up email, they should be used by the USPTO to pursue Tim Langdell for perjury.

<u>To conclude this part</u>, Tim Langdell never proved that I received any document he sent, or that I was aware of the opposition. But we proved he was harassing us again in October 2013, he was acting in bad faith, he made up fake emails and told a story different from the truth. He never really tried to alert us about the opposition and now he is trying to hide that.

# Last part, response to the document 12 (MOTION FOR RECONSIDERATION; OPPOSITION TO THE RESTORAL OF THE MARK OR REINSTATEMENT OF OPPOSITION PROCEEDINGS; MOTION FOR SANCTIONS)

10. The opposer is using the same arguments in this document. Opposer's allegations of perjury clearly make no sense at all. I never lied to the USPTO. Since January 2009 I am doing my best to get this mark registered, I have no reason to lie about it. But I must fight Tim Langdell,

who has been exposed publicly as a perjure, a fraud, a criminal, and a parasite. Even a judge of a federal court said it during the lawsuit when he ordered the USPTO to cancel all marks owned by Langdell.

I am pretty sure the USPTO now has a clear picture and I prefer to keep this short. We are all losing enough time with Langdell, and it must stop now.

11. On the opposition itself. Langdell has no mark EDGE anymore in class 9, and so he cannot challenge our application. This opposition has no legal ground.

Neither opposer nor the Board sent us anything to alert us about this opposition in October 2013. As a result, the opposition should be dismissed since we were not properly served with documents and properly notified of the proceedings.

### Conclusion

For all the reasons exposed in this document, we ask the board to dismiss this opposition and to proceed to the registration of our mark.

On a side note, we proved that Tim Langdell is still lying and fabricating evidence, he is still a parasite and we believe he is still harassing other companies or individuals. The only way to stop him is to put him in jail, and it should be easy to do for perjury. We ask you to consider seriously this option for the benefit of many other honest citizens acting in good faith.

Sincerely,

David Papazian, for Mobigame

## **Exhibit A**

From: Tim Langdell [mailto:tim@edgegames.com] Sent: dimanche 29 septembre 2013 07:36

To: David Papazian

Cc: tim@edgegames.com
Subject: Re: Your U.S. Appln for "EDGE" - Without Prejuduce Settlement Proposal

Without Prejudice Settlement Proposal - Privileged Communication: Cannot be used in proceedings.

Hello David,

As you know, both Future Publishing and we are due to file our Oppositions against your attempt to register the mark EDGE here in the U.S. by October 2nd. You might have guessed already, but needless to say we are not working with Future here against you. Future is our enemy on this as well as your enemy, but unfortunately unless you and I can work something out, then we have to oppose your U.S. application.

We shall be filing an opposition by the 2nd, and we presume that Future will file an Opposition, too. I don't know if the fact Future are even threatening to Oppose you came as any surprise to you, but by now you have hopefully worked out that Future were only pretending to be friendly to you. They have no intention of letting you use the mark EDGE.

I know that since as long ago as March 2009 you have been told that we are the bad guys and that Future are the good guys. And I know you haven't wanted to accept the truth, but the reality is that we only took action against you because Future insisted we had to do so. It was Future all along that was behind everything that people said was evidence of me/Edge Games acting as "trademark trolls." I never took any action -- not against you, or EA or anyone else -- that Future didn't insist I

Please look at the attached emails from 2009 and you will see that it was Future that first brought your iPhone game "EDGE" to my attention in March 2009. And it was Future that insisted we had to get Apple to take your game down from iTunes -- in fact, as you can see, Future kept insisting we had to sue you, but I kept refusing to do so. I kept saying I didn't want to take action against a fellow Indie Developer.

You were used as a pawn by Future to enable them to try to steal the mark "EDGE" from us. Even now, Future are still trying to take the mark "EDGE" for games for themselves, and will do anything to stop either you or us from being able to hold "EDGE" trademark registrations. Future want to own the "EDGE" mark all on their own. According to trademark applications Future have made, they intend to start using the mark EDGE for games themselves, not just for a magazine.

#### Settlement proposal.

I thus propose a settlement with you that is very close to the very first settlement you proposed to me in 2009: namely, I propose that Mobigame and Edge Games own the EDGE mark together. That is, that we share the "EDGE" registrations in the U.S. and in Europe as joint-owners. We own the registrations together with you owning the mark EDGE for a specific game called "EDGE" and we owning the mark EDGE as a brand name for a publisher of games (and we would agree never to make a

We would then join with you in fighting Future's attempt to stop you registering the mark EDGE in the U.S.. We would also help you fight Future when they come after your French and Community Trade Mark registrations for "EDGE" (which is what they have told us they intend to do to you after they win against you in the

The way we would achieve this settlement where we then both own the same mark between us is that you would file an assignment with the US Trademark Office to the way we would not be the property of the prassign the part of your Application No. 79,067,304 to us just for use as a brand name with our making clear that you retain the use of the mark EDGE for the name of a game itself. And to be sure that we can defend ourselves against Future both in the U.S. and in the UK/Europe, you would do the same partial assignment of your CTM 0998834.

Of course, we shall do a partial assignment to Mobigame of any "EDGE" trademark we have so that you will own the part of our trademark for the name of a game.

I very much hope that you can agree to this proposal. Together we can stop Future trying to steal the mark EDGE from both of us, and you have my commitment from here on that if you accept this proposal I will do all I can to help you protect your use of the mark EDGE for your game.

Kind regards,

Tim Langdell CEO, Edge Games Inc Pasadena CA

Email from Tim Langdell received on September 29, 2013 where he tries to manipulate us (warning: the content of this email is full of lies)

From: Tim Langdell [mailto:tim@edgegames.com]

Sent: mercredi 2 octobre 2013 19:08

To: David Papazian Cc: tim@edgegames.com

Subject: Proposal For Consent Agreement Regarding TM Serial No 79067304

WITHOUT PREJUDICE, CONFIDENTIAL - For settlement purposes only (may not be used in proceedings)

#### Dear David

I was puzzled by the fact you had not replied to me until our research just revealed that you did a recent consent agreement with Future. That would explain why you didn't respond. But at least you now know that you did this recent deal with the company who attacked you in 2009, making it look like we attacked you.

I see now that Future had no hope of successfully opposing your application for the mark EDGE since it is a matter of record in the fight between Future and us they admitted they have had no instances of confusion between their magazine and any game or game brand EDGE. Thus they knew they would lose and that would put you in possession of a registration that could have stopped them registering the other two applications they have in the system (85153981, 8515395). They thus had to persuade you to sign that consent, which I see you did. I wonder if you would have done that if you had known who Future truly are?

#### PROPOSAL FOR CONSENT AGREEMENT

I am thus proposing you please give us the same consent agreement that you gave to Future – a consent agreement that states you will not oppose our application for the mark EDGE GAMES (Serial No 85147499) and that you consent to our owning this registration for EDGE GAMES.

In return we will withdraw our opposition against your application for the mark EDGE filed today, on the condition, of course, that the Trademark Office accept our consent agreement and permit our mark EDGE GAMES to go forward to publication.

If you are agreeable to this then we may need to include wording that your use of the mark EDGE is solely for a game of that name, whereas our use of the mark EDGE (in the form EDGE GAMES or EDGE or otherwise) is for a brand name (Publisher's 'House Mark'). We may also both have to amend the description of goods of our applications to reflect this difference in the use of the mark EDGE.

If we can execute such a consent agreement then I believe we can settle matters between us.

Kind regards,

Tim

Tim Langdell CEO Edge Games

Email from Tim Langdell received on October 2, 2013. On the same day when he filled the opposition he tried to manipulate us and offer a "proposal for consent agreement". We did not consider it seriously at all, it's why we missed the reference to the "opposition filled today", we thought he was lying as always.

## Exhibit B

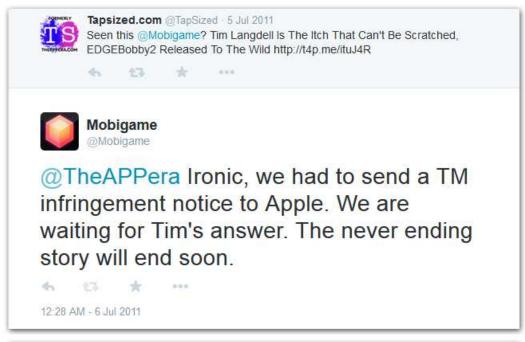


Mister Craig Grannell comments this case since 2009, he is a good journalist, we pay attention to his opinions but we can't read everything he sends to us.



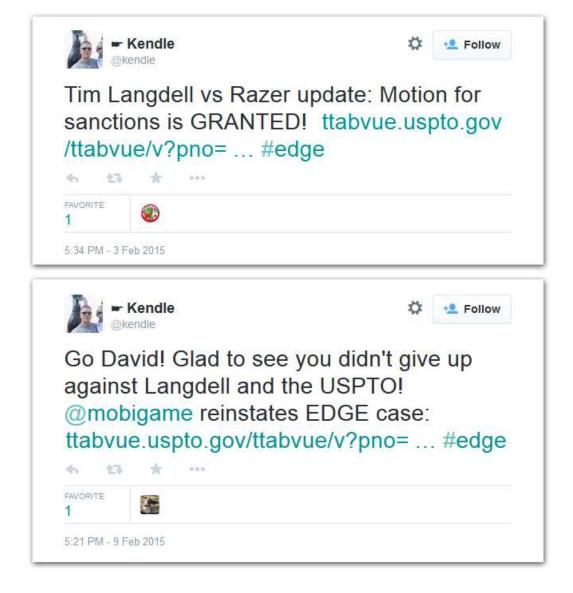






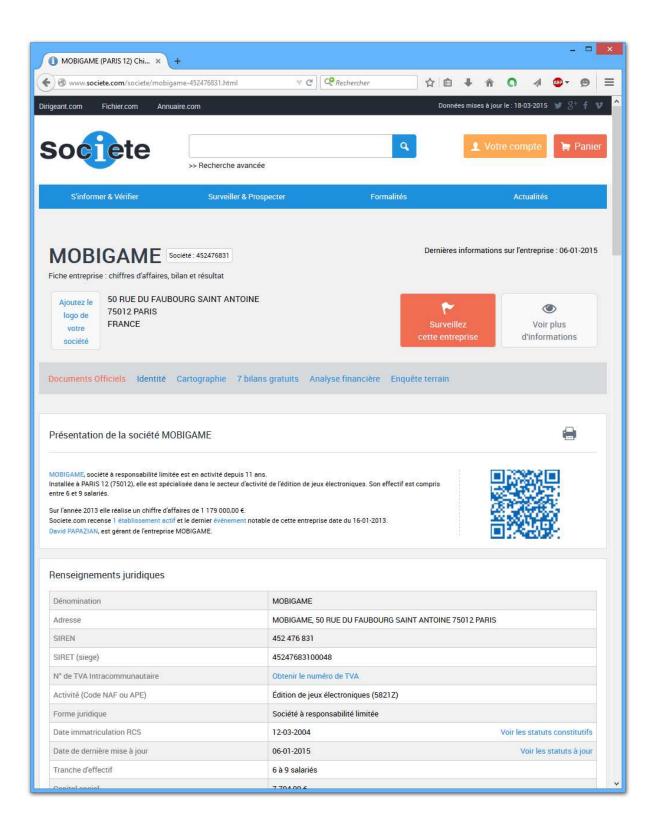


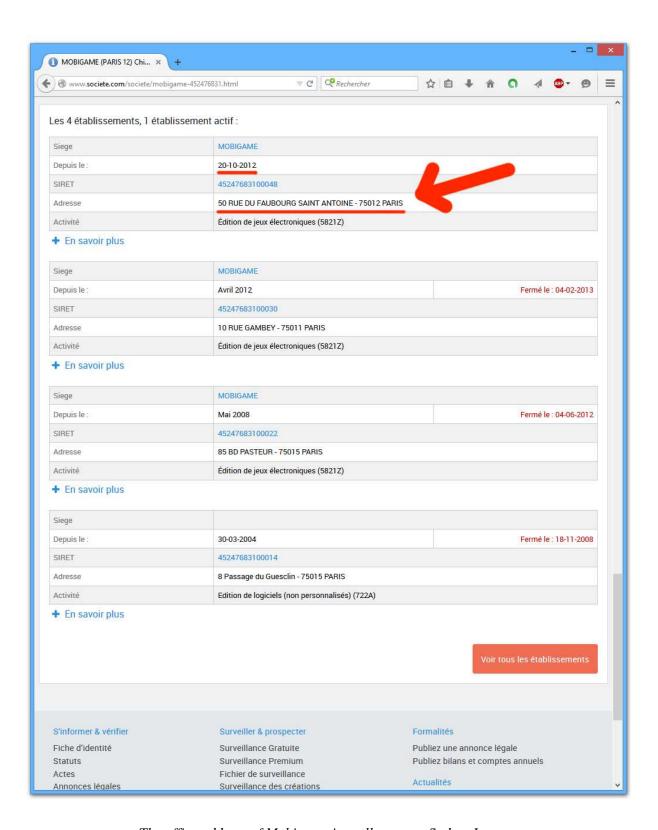




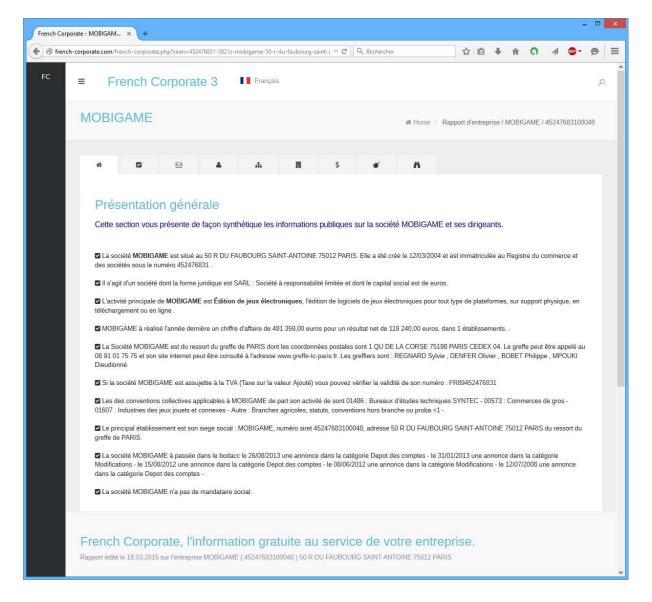
A few Tweets to show that a lot of journalists, game developers and fans write to us a lot on Twitter about Tim Langdell, they call him a "Patent parasite". We cannot read and investigate each Tweet.

## Exhibit C





The office address of Mobigame is really easy to find on Internet



The non official website used by Tim Langdell gives the correct address